IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CHADRON MOTOR COMPANY, INC., a
Nebraska corporation d/b/a TRACTOR
WRX;

             Plaintiff,

vs.

TOBROCO MACHINERY LLC, a Delaware
limited liability company;

             Defendant.

4:24CV3152

ORDER

This matter comes before the Court *sua sponte* after review of the Complaint. The court has an independent obligation to determine whether subject matter jurisdiction exists in each case. See *Sac & Fox Tribe of the Mississippi in Iowa, Election Bd. v. Bureau of Indian Affs.*, 439 F.3d 832, 836 (8th Cir. 2006). "It is a fundamental precept that federal courts are courts of limited jurisdiction. The limits upon federal jurisdiction, whether imposed by the Constitution or by Congress, must be neither disregarded nor evaded." *Owen Equip. & Erection Co. v. Kroger*, 437 U.S. 365, 374 (1978).

On August 27, 2024, Chadron Motor Company, Inc. filed this suit against Defendant, Tobroco Machinery LLC, invoking this Court's diversity jurisdiction under 28 U.S.C. § 1332(a). (Filing No. 1). Diversity jurisdiction is limited to cases in which the "controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and is between . . . citizens of different States[.]" See 28 U.S.C. § 1332(a).

According to its complaint, Plaintiff alleges complete diversity exists because Plaintiff "is a Nebraska corporation with its principal place of business in Chadron, Nebraska" and Defendant "is a limited liability company formed under the laws of the state of Delaware with its principal place of business in Cedar Falls, Iowa." (Filing No. 1 at ¶¶ 5-6). But, for purposes of diversity jurisdiction, a limited liability company's citizenship is that of its members. *E3 Biofuels, LLC v. Biothane, LLC*, 781 F.3d 972, 975 (8th Cir. 2015). "When diversity jurisdiction is invoked in a case in which a limited liability company is a party, the court needs to know the citizenship of each

member of the company. And because a member of a limited liability company may itself have multiple members—and thus may itself have multiple citizenships—the federal court needs to know the citizenship of each 'sub-member' as well." *Delay v. Rosenthal Collins Grp., LLC*, 585 F.3d 1003, 1005 (6th Cir. 2009); see also *Haas as Tr. of Bira Rabushka Living Tr. v. Rabushka*, No. 4:23-CV-1304 RLW, 2023 WL 6879663, at *1 (E.D. Mo. Oct. 18, 2023) ("[F]or LLCs, the Court must examine the citizenship of each member of the LLC to determine whether it has diversity jurisdiction."). "For any members of LLCs that are themselves LLCs, partnerships, or limited partnerships, information concerning their underlying members or partners must be alleged in accordance with the rules applicable to each such type of entity, through however many layers of ownership there may be," until either individuals or corporations are identified as the owner(s). *OHM Hotel Grp., LLC v. Dewberry Consultants, LLC*, No. 4:15-CV-1541 CAS, 2015 WL 5920663, at *1 (E.D. Mo. Oct. 9, 2015).

After review, the Court finds Plaintiff's allegations of Defendant's citizenship is insufficient to establish complete diversity. Although Plaintiff has identified Defendant's principal place of business, the Eighth Circuit has held that an LLC's citizenship is that of its members, not its principal place of business. Plaintiff's Complaint does not set forth the name or type of the Defendant's member(s) and the citizenship of each member. "Defective allegations of jurisdiction may be amended, upon terms, in the trial or appellate courts." 28 U.S.C. § 1653 (2012). Accordingly, the Court will grant Plaintiff leave to file an amended complaint that properly alleges the citizenship of the LLC defendant in accordance with *E3 Biofuels* to assure this Court it has subject-matter jurisdiction. Therefore,

IT IS ORDERED: Plaintiff shall filed an amended complaint to properly allege the citizenship of the defendant on or before **September 17, 2024**.

Dated this 28th day of August, 2024.

BY THE COURT:

s/ Michael D. Nelson
United States Magistrate Judge

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